



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2041

Introduced 2/10/2011, by Sen. John J. Millner

SYNOPSIS AS INTRODUCED:

705 ILCS 505/8

from Ch. 37, par. 439.8

Amends the Court of Claims Act. Provides that the amount of an unjust imprisonment award shall be \$85,000 multiplied by the number of years served in prison, expressed as a fraction to reflect partial years, plus any child support arrearage of the claimant resulting from support obligations that arose while the claimant was in prison (instead of a amount at the discretion of the court subject to certain maximums on the award and attorney's fees). Provides that a person who receives such an award may not bring or proceed with any action involving the same subject matter including the person's arrest, conviction, or confinement against the State or other governmental entities or their employees. Provides that any compensation under the provisions concerning unjust imprisonment shall be reduced by any amount received by the person in an award or settlement from any other action brought prior to receiving an award. Provides that the changes made by the amendatory Act apply to claims pending on or filed after the effective date. Effective immediately.

LRB097 07575 AJO 47686 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Court of Claims Act is amended by changing
5 Section 8 as follows:

6 (705 ILCS 505/8) (from Ch. 37, par. 439.8)

7 Sec. 8. Court of Claims jurisdiction; deliberation
8 periods. The court shall have exclusive jurisdiction to hear
9 and determine the following matters:

10 (a) All claims against the State founded upon any law of
11 the State of Illinois or upon any regulation adopted thereunder
12 by an executive or administrative officer or agency; provided,
13 however, the court shall not have jurisdiction (i) to hear or
14 determine claims arising under the Workers' Compensation Act or
15 the Workers' Occupational Diseases Act, or claims for expenses
16 in civil litigation, or (ii) to review administrative decisions
17 for which a statute provides that review shall be in the
18 circuit or appellate court.

19 (b) All claims against the State founded upon any contract
20 entered into with the State of Illinois.

21 (c) All claims against the State for time unjustly served
22 in prisons of this State when the person imprisoned received a
23 pardon from the governor stating that such pardon is issued on

1 the ground of innocence of the crime for which he or she was
2 imprisoned or he or she received a certificate of innocence
3 from the Circuit Court as provided in Section 2-702 of the Code
4 of Civil Procedure; provided, the amount of the award shall be,
5 subject to the limitations in this subsection (c), \$85,000
6 multiplied by the number of years served in prison, expressed
7 as a fraction to reflect partial years, plus any child support
8 arrearage of the claimant resulting from support obligations
9 that arose while the claimant was in prison ~~is at the~~
10 ~~discretion of the court; and provided, the court shall make no~~
11 ~~award in excess of the following amounts: for imprisonment of 5~~
12 ~~years or less, not more than \$85,350; for imprisonment of 14~~
13 ~~years or less but over 5 years, not more than \$170,000; for~~
14 ~~imprisonment of over 14 years, not more than \$199,150; and~~
15 ~~provided further, the court shall fix attorney's fees not to~~
16 ~~exceed 25% of the award granted.~~ On or after September 22, 2008
17 (the effective date of Public Act 95-970) ~~this amendatory Act~~
18 ~~of the 95th General Assembly,~~ the court shall annually adjust
19 the ~~maximum~~ awards authorized by this subsection (c) to reflect
20 the increase, if any, in the Consumer Price Index For All Urban
21 Consumers for the previous calendar year, as determined by the
22 United States Department of Labor, except that no annual
23 increment may exceed 5%. For the annual adjustments, if the
24 Consumer Price Index decreases during a calendar year, there
25 shall be no adjustment for that calendar year. The transmission
26 by the Prisoner Review Board or the clerk of the circuit court

1 of the information described in Section 11(b) to the clerk of
2 the Court of Claims is conclusive evidence of the validity of
3 the claim. The changes made by Public Act 95-970 ~~this~~
4 ~~amendatory Act of the 95th General Assembly~~ apply to all claims
5 pending on or filed on or after September 22, 2008 ~~the~~
6 ~~effective date~~. A person who receives compensation under this
7 subsection (c) may not bring or proceed with any other action
8 involving the same subject matter, including an action
9 involving the person's arrest, conviction, or length of
10 confinement, against the State, any unit of local government,
11 or any employee of the State or a unit of local government. The
12 compensation under this subsection (c) shall be reduced by any
13 amounts received by the person as the result of an award or
14 settlement from any such other action that was brought prior to
15 receiving compensation under this subsection. The changes made
16 by this amendatory Act of the 97th General Assembly apply to
17 claims pending on or filed on or after the effective date of
18 this amendatory Act.

19 (d) All claims against the State for damages in cases
20 sounding in tort, if a like cause of action would lie against a
21 private person or corporation in a civil suit, and all like
22 claims sounding in tort against the Medical Center Commission,
23 the Board of Trustees of the University of Illinois, the Board
24 of Trustees of Southern Illinois University, the Board of
25 Trustees of Chicago State University, the Board of Trustees of
26 Eastern Illinois University, the Board of Trustees of Governors

1 State University, the Board of Trustees of Illinois State
2 University, the Board of Trustees of Northeastern Illinois
3 University, the Board of Trustees of Northern Illinois
4 University, the Board of Trustees of Western Illinois
5 University, or the Board of Trustees of the Illinois
6 Mathematics and Science Academy; provided, that an award for
7 damages in a case sounding in tort, other than certain cases
8 involving the operation of a State vehicle described in this
9 paragraph, shall not exceed the sum of \$100,000 to or for the
10 benefit of any claimant. The \$100,000 limit prescribed by this
11 Section does not apply to an award of damages in any case
12 sounding in tort arising out of the operation by a State
13 employee of a vehicle owned, leased or controlled by the State.
14 The defense that the State or the Medical Center Commission or
15 the Board of Trustees of the University of Illinois, the Board
16 of Trustees of Southern Illinois University, the Board of
17 Trustees of Chicago State University, the Board of Trustees of
18 Eastern Illinois University, the Board of Trustees of Governors
19 State University, the Board of Trustees of Illinois State
20 University, the Board of Trustees of Northeastern Illinois
21 University, the Board of Trustees of Northern Illinois
22 University, the Board of Trustees of Western Illinois
23 University, or the Board of Trustees of the Illinois
24 Mathematics and Science Academy is not liable for the
25 negligence of its officers, agents, and employees in the course
26 of their employment is not applicable to the hearing and

1 determination of such claims.

2 (e) All claims for recoupment made by the State of Illinois
3 against any claimant.

4 (f) All claims pursuant to the Line of Duty Compensation
5 Act. A claim under that Act must be heard and determined within
6 one year after the application for that claim is filed with the
7 Court as provided in that Act.

8 (g) All claims filed pursuant to the Crime Victims
9 Compensation Act.

10 (h) All claims pursuant to the Illinois National
11 Guardsman's Compensation Act. A claim under that Act must be
12 heard and determined within one year after the application for
13 that claim is filed with the Court as provided in that Act.

14 (i) All claims authorized by subsection (a) of Section
15 10-55 of the Illinois Administrative Procedure Act for the
16 expenses incurred by a party in a contested case on the
17 administrative level.

18 (Source: P.A. 95-970, eff. 9-22-08; 96-80, eff. 7-27-09.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.